

WORLD TRADE ORGANIZATION

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**Working Party on the Accession
of the Kingdom of Nepal**

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WORKING PARTY ON THE ACCESSION OF THE KINGDOM OF NEPAL

Offer of Specific Commitments in Services

Revision

The Government of the Kingdom of Nepal has submitted the attached revised Offer of Specific Commitments in Services and List of Article II MFN Exemptions with a request that it be circulated to members of the Working Party.

Offer of Specific Commitments on Services

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
I HORIZONTAL COMMITMENTS			
All Sectors included in this Schedule	<p>1) and 2) Allocation of convertible currency for payment of foreign services suppliers subject to approval of Central Bank</p> <p>3) None, except only through incorporation in Nepal and with foreign capital equity of 49 per cent.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except:</p> <p>A foreign investor reinvesting earnings is required to obtain the permission of the Department of Industry.</p> <p>All non-prohibited foreign investments outside the Financial Services Sector require approval by the Department of Industry.</p> <p>Investments of a type covered by the Environmental Protection Rules 1997, require an environmental impact assessment (EIA) or initial environmental assessment (IEA) (depending on the size and nature of the business) by the Ministry of Population and Environment.</p> <p>Incentives and subsidies are available only to the company wholly owned by Nepalese national.</p> <p>The majority of the members of the Board of Directors of a Joint Venture should be Nepalese nationals.</p>	<p>Except where an environmental impact assessment is required, decisions of the Department are normally provided within 30 days of the date of application.</p> <p>Approval of an investment will not normally be withheld except for failure to meet environmental standards.</p> <p>A foreign investor making an investment in foreign currency shall be entitled to repatriate the following amount outside Nepal:</p> <p>a) The amount received by the sale, in whole or part, of the investors share of equity;</p> <p>b) The amount received as profit or dividend as a result of an equity investment;</p> <p>c) The amount received as the payment of the principal of and interest on any foreign loan; and</p> <p>d) The amount received under an agreement to transfer technology approved by the Department of Industries or the Department of Cottage and Small Industries.</p>

Modes of supply (1) Cross-Border (2) Consumption abroad (3) Commercial Presence (4) Presence of natural persons

Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p>4) Unbound except for temporary entry and stay of natural persons of another Member in the following category based on economic need test:</p> <p><u>Service sales persons</u></p> <p>Persons not based in the territory of Nepal and receiving no remuneration from a source located within Nepal, who are engaged in activities related to representing a service supplier for the purpose of negotiating for the sale of services of that supplier where:</p> <p>a. such sales are not directly made to the general public, and</p> <p>b. the sales person is not engaged in supplying the service.</p> <p><u>Person responsible for the setting up a commercial presence</u></p> <p>Persons who are employees of an enterprise not having commercial presence in Nepal and who stay temporarily in Nepal for the purpose of setting up a commercial presence of that enterprise in Nepal.</p> <p>Entry for persons named in these two categories is limited to a ninety-day period.</p> <p><u>Intra-corporate transferees</u></p> <p>Managers, executives and specialists as defined below who are employees of firms that provide services in Nepal through a branch, subsidiary or affiliate established in Nepal and who have been in</p>	<p>4) Unbound except for measures concerning the categories of natural person referred to in the market access column.</p> <p>Selling and buying real estate is the constitutional right of every Nepalese citizen. The Civil Code prohibits anyone from selling, mortgaging, gifting or endowing or disposing any real property to a foreign individual.</p>	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p>the prior employment of their firm outside Nepal for a period of not less than one year immediately preceding the date of their application for admission and who fall with one of the following categories:</p> <p>(a) <u>Executives and Managers</u>: persons within an organization who primarily direct the organization or a department or sub-division of the organization, supervise or control the work of their supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring, firing or other personnel actions (such as promotion, or leave authorization) and exercise discretionary authority over day-to-day operations;</p> <p>(b) <u>Specialists</u>: persons within an organization who possess technical knowledge at an advanced level of continued expertise and who possess propriety knowledge of the organization's services, research techniques or management techniques. (Specialists may include but are not limited to members of licensed professions.)</p> <p>Entry for the above-listed categories of intra-corporate transferees is limited to a 2 years initial period that may be extended for up to 3 years for a total period not to exceed 5 years.</p> <p>All foreign professionals working in Nepal require membership of relevant Nepalese professional organizations.</p>		

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
II. SECTOR SPECIFIC COMMITMENTS			
I. BUSINESS SERVICES			
1. Professional Services			
(d) Architectural Services (CPC 8671)	1) None 2) None 3) Only through incorporation in Nepal and with a foreign equity ceiling of 51 per cent 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(f) Integrated engineering Services (CPC 8673)	1) None 2) None. 3) Only through incorporation in Nepal and with a foreign equity ceiling of 51 per cent 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) Only through incorporation in Nepal and with a foreign equity ceiling of 51 per cent 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(i) Veterinary services (CPC 932)	1) None 2) None 3) None 4) Unbound except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	

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Sector or Sub-sector		Limitations of Market Access		Limitations on National Treatment		Additional Commitments	
2. Computer and Related Services							
(a)	Consultation services related to the installation of computer hardware (CPC 841)	1)	None	1)	None		
		2)	None	2)	None		
		3)	Only through incorporation in Nepal and with foreign equity ceiling of 51 per cent	3)	None		
(b)	Software implementation services (CPC 842)	Joint venture companies are required to provide on the job training to minimum of 80 per cent of the local staff.		4) Unbound except as provided under horizontal section			
(c)	Data processing services (CPC 843)						
(d)	Data base services (CPC 844)	4)	Unbound, except as indicated in the horizontal section.				
(e)	Other computer services						
	- Data preparation services (8491)						
	- Other computer services (CPC 8499)						
3. Research and Development Services							
(a)	R&D services on natural sciences	1)	None	1)	None		
		2)	None	2)	None		
		3)	None	3)	None		
		4)	Unbound, except as indicated in the horizontal section.	4)	Unbound except as indicated in horizontal section.		
	- Heat, light, electromagnetism, astronomy but excluding atomic energy and related matters (CPC 85101)						
	- Engineering and technology, including applied science and technology for casting, metal, machinery, electricity, communications, vessels, aircrafts, civil engineering,						

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
construction, information etc. (CPC 85103)			
6. Other Business Services			
(b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section.	
(q) Packaging services (CPC 876)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
(s) Convention Services (CPC 87909*)	1) None 2) None 3) Only through incorporation in Nepal and with foreign equity ceiling of 51 per cent 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
II. COMMUNICATION SERVICES			
3. Telecommunications Services			
(a) Local telephone service	1) None	1) None	
(b) Domestic telephone service	2) None	2) None	
	3) None, except:	3) None, except:	
(c) International telephone services	The license to operate any telecommunications service is issued by the Nepal Telecommunication Authority (NTA)	As provided in horizontal section	
(d) Telex services		Land and equipment of a company with more than 50% foreign ownership reverts to HMG after expiry of license. If foreign ownership is less than 50%, the Nepalese licensee may operate the service with a new license.	
(e) Domestic and international telegraph service	A license will be issued to one extra service provider in addition to Nepal Telecommunications Corporation (NTC) subject to the following conditions: Foreign participation permitted through a joint venture with up to 80% equity participation. License issued for an initial period of 10 years. Renewable for each additional 5 year periods. The period of license is 25 years including initial period. Licensee will be able to provide international telecommunications services to its own customers through its own network by the end of 2003. Licensee will be empowered to lease lines to other services providers and users by the end of 2003. Terms of inter-connection between NTC and licensee to be negotiated. In case		

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
	<p>settlement is not reached, Nepal Telecommunication Authority will arbitrate and its decision will be binding to both the parties.</p> <p>Licensee shall operate at least one public call office in each Village Development Committee as prescribed by Nepal Telecommunication Authority.</p> <p>Licensee to invest prescribed fraction of total investment in the development, extension and operation of telecommunications services in rural areas.</p> <p>Licensee shall create a fund for the development of rural communications and licensee shall deposit every year, out of its gross annual income, prescribed fraction of total annual income specified by the NTA into a fund for the development of rural communications.</p> <p>4) Unbound, except as indicated in the horizontal section.</p>	<p>4) Unbound except as indicated in horizontal section.</p>	

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
Mobile Telephone Service	<p>1) None</p> <p>2) None</p> <p>3) None, except:</p> <p>The license to operate is issued by the Nepal Telecommunication Authority (NTA)</p> <p>Foreign participation permitted through a joint venture with up to 80% equity participation.</p> <p>License issued for an initial period of 10 Years. Renewable for each additional 5 year periods. The period of license is 25 years including initial period.</p> <p>Mobile operators will not be permitted to operate international services.</p> <p>4) Unbound except as indicated in horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except</p> <p>As indicated in horizontal section</p> <p>Land and equipment of a company with more than 50% foreign ownership reverts to HMG after expiry of license. If foreign ownership is less than 50%, the Nepalese licensee may operate the service with a new license.</p> <p>4) Unbound except as indicated in horizontal section.</p>	<p>3) By 2004 two mobile operators will be licensed to operate Global Mobile System (GMS). One operator will be selected through bidding process. The other operator will be the Nepal Telecommunications Corporation that will operate its Mobile System under the same terms of service as the second operator.</p>

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
Value-added telecommunications			
(a) Internet including e-mail	1) None	1) None	3) After 2004 VSAT operators will be permitted to provide data or voice services but not both.
(b) E.mail	2) None	2) None	
(c) Voice mail	3) None, Except:	3) None, except:	
(d) Video text	The license to operate is issued by the Nepal Telecommunication Authority (NTA)	Land and equipment of a company with more than 50% foreign ownership reverts to HMG after expiry of license. If foreign ownership is less than 50%, the Nepalese licensee may operate the service with a new license.	
(e) Fax mail	Foreign participation permitted through a joint venture with up to 80% equity participation.		
(f) VSAT	License issued for an initial period of 5 years. Renewable for each additional 5 year periods.		
(g) Audio Conference	The period of license is 25 years including initial period		
(h) Pay phone			
(i) Pre-paid calling card	4) Unbound except as indicated in the horizontal section	4) Unbound except as indicated in horizontal section.	
(j) Local data communication			
(k) Radio paging			
(l) Trunked mobile			

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
V. EDUCATIONAL SERVICES			
C. Higher Education services (CPC 923)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound, except as indicated in horizontal section	
VI. ENVIRONMENTAL SERVICES			
1. Sewage Services (CPC 9401)	1) Unbound* 2) Unbound* 3) None 4) Unbound except as indicated in the horizontal section	1) None 2) None 3) None 4) Unbound except as indicated in horizontal section.	
2. Refuse disposal services (CPC 9402)			
3. Sanitation and similar Services (CPC 9403)			
VII. FINANCIAL SERVICES			
<p>The commitments in non-life direct insurance services are made in accordance with the General Agreement on Trade in Services and the Annex on Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations and the terms and conditions of Insurance Board and any other competent authority in Nepal, as the case may be, which are consistent with Article VI of the GATS and paragraph 2 of the Annex on Financial Services.</p> <p>The commitments in non-life direct insurance services are given to the nationals and financial institutions of the Members whose laws and policies do not bar the provision of similar commitments to the Nepalese nationals and financial institutions.</p> <p>Approval, registration and licensing relating to non-life direct insurance services will be subject to an economic needs test as applicable to domestic institutions. Only financial institutions have rating of at least 'B' by Credit Rating Agency e.g. MOODI, Standard & Poor can have commercial presence in Nepal. The shares held by foreign nations and foreign financial institutions in their locally incorporated companies are not transferable without the prior written approval of the Nepal Rastra Bank (the central bank) or any other competent authority as the case may be. Representative offices may not engaged in commercial business.</p>			

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Sector or Sub-sector	Limitations of Market Access	Limitations on National Treatment	Additional Commitments
1. Insurance and Insurance Related Services			
A. Direct Insurance	1) None	1) None	3) Bound for the existing foreign insurance services providers as to their scope of operations and equity structure.
(b) Non-life	2) None	2) None	
	3) None, except: As indicated in general and horizontal conditions. Only through in corporation with foreign equity ceiling of 51 per cent. New establishment is subject to licence approved by Insurance Board and/or His Majesty's Government of Nepal, if necessary economic needs test.	3) None	
	4) Unbound, except as indicated in the horizontal section.	4) Unbound except as indicated in horizontal section.	
VIII. HEALTH RELATED AND SOCIAL SERVICES			
1. Hospital Services (CPC 9311)	1) Unbound*	1) None	
	2) None	2) None	
	3) Only through incorporation with foreign equity ceiling of 51 per cent	3) None	
	4) Unbound, except as indicated in the horizontal section.	4) Unbound except as indicated in horizontal section.	

* Unbound due to lack of technical feasibility.

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Sector or Sub-sector		Limitations of Market Access		Limitations on National Treatment		Additional Commitments	
IX. TOURISM AND TRAVEL RELATED SERVICES							
A.	Tourism and restaurants Hotel, lodging services (CPC 6411) (star hotels only)	1)	Unbound*	1)	None		
		2)	None, except convertible currency limit of US \$700 per annum per person	2)	None		
		3)	None	3)	None		
B.	Travel agency and tour operator (CPC 7471)	4)	Unbound, except as indicated in the horizontal section	4)	Unbound except as indicated in horizontal section.		
XI. TRANSPORT SERVICES							
3. Air Transport Services							
(d)	Maintenance and repair of aircraft (CPC 8868)	1)	None	1)	None		
		2)	None	2)	None		
		3)	None	3)	None		
		4)	Unbound, except as indicated in the horizontal section	4)	Unbound except as indicated in horizontal section.		

* Unbound due to lack of technical feasibility.

List of Article II MFN Exemptions

Sector or Sub-Sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended Duration	Conditions creating the need for the exemption
All Sectors	Allocation of non-convertible currency effected by commercial banks without involvement of Central Bank	India	Indefinite	To facilitate border traffic and regional integration by providing for full current account convertibility of Nepalese rupees into Indian rupees.
Tourism	Higher allocation of convertible currency for travel purposes	24 OECD countries.	Indefinite	To reflect higher board and lodging costs in countries mentioned.
Insurance	Approval of application for establishment dependent on reciprocal treatment	All countries	Indefinite	Promote equitable treatment for Nepalese insurers seeking to establish abroad.

TELECOMMUNICATION REFERENCE PAPER

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- b) cannot feasible be economically or technically substituted in order to provide a service.

A major suppliers is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- a) control over essential facilities; or
- b) use of its position in the market

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, along or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- a) engaging in anti-competitive cross-subsidization;
- b) using information obtained from competitors with anti-competitive results; and
- c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- a) at any time or;
- b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a license is required, the following will be made publicly available:

- a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a license and
- b) the terms and conditions of individual licenses.

The reasons for the denial of a license will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, number and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.
